

the record of an enforcement proceeding.

(4) *Disclosure to the public; national interest determination.* Section 404(c) of the Act provides that confidential business information, as defined by the Act, that is in the possession of the U.S. Government, is exempt from public disclosure in response to a Freedom of Information Act request, except when such disclosure is determined to be in the national interest.

(i) *National interest determination.* The United States National Authority (USNA), in coordination with the CWC interagency group, shall determine on a case-by-case basis if disclosure of confidential business information in response to a Freedom of Information Act request is in the national interest.

(ii) *Notification of intent to disclose pursuant to a national interest determination.* The Act provides for notification to the affected person of intent to disclose confidential business information based on the national interest, unless such notification of intent to disclose is contrary to national security or law enforcement needs. If, after coordination with the agencies that constitute the CWC interagency group, the USNA does not determine that such notification of intent to disclose is contrary to national security or law enforcement needs, the USNA will notify the person that submitted the information and the person to whom the information pertains of the intent to disclose the information.

SUPPLEMENT NO. 1 TO PART 718—CONFIDENTIAL BUSINESS INFORMATION DECLARED OR REPORTED

	Fields containing confidential business information
Schedule 1 Forms:	
Certification Form	None.
Form 1-1	None.
Form 1-2	All fields.
Form 1-2A	All fields.
Form 1-2B	All fields.
Form 1-3	All fields.
Form 1-4	All fields.
Schedule 2 Forms:	
Certification Form	None.
Form 2-1	None.
Form 2-2	Questions 2-2.8.
Form 2-3	All fields.
Form 2-3A	All fields.
Form 2-3B	All fields.
Form 2-3C	All fields.
Form 2-4	All fields.

	Fields containing confidential business information
Schedule 3 Forms:	
Certification Form	None.
Form 3-1	None.
Form 3-2	None.
Form 3-3	All fields.
Form 3-4	All fields.
Unscheduled Discrete Organic Chemicals Forms:	
Certification Form	None.
Form UDOC	None.
Forms A and B and attachments (all Schedules and UDOCs).	Case-by-case; must be identified by submitter.

*This table lists those data fields on the Declaration and Report Forms that request "confidential business information" (CBI) as defined by the Act (sections 103(g) and 304(e)(2)). As provided by section 404(a) of the Act, CBI is exempt from disclosure in response to a Freedom of Information Act (FOIA) request under sections 552(b)(3) and 552(b)(4) (5 U.S.C.A. 552(b)(3)–(4)), unless a determination is made, pursuant to section 404(c) of the Act, that such disclosure is in the national interest. Other FOIA exemptions to disclosure may also apply. You must identify CBI provided in Form A and/or Form B attachments, and provide the reasons supporting your claim of confidentiality, except that Schedule 1 facility technical descriptions submitted with initial declarations are always considered to include CBI. If you believe that information you are submitting in a data field marked "none" in the Table is CBI, as defined by the Act, you must identify the specific information and provide the reasons supporting your claim of confidentiality in a cover letter.

PART 719—ENFORCEMENT

Sec.

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AUTHORITY: 22 U.S.C. 6701 *et seq.*; 50 U.S.C. 1601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13128, 64 FR 36703.

Bureau of Industry and Security, Commerce

§ 719.2

SOURCE: 64 FR 73804, Dec. 30, 1999, unless otherwise noted.

§ 719.1 Scope and definitions.

(a) *Scope.* This part 719 describes the various sanctions that apply to violations of the Act and this subchapter. It also establishes detailed administrative procedures for certain violations of the Act. The three categories of violations are as follows:

(1) *Violations of the Act subject to administrative and criminal enforcement proceedings.* This CWCR sets forth in § 719.2 violations for which the statutory basis is the Act. The Department of Commerce investigates these violations and, for administrative proceedings, prepares charges, provides legal representation to the U.S. Government, negotiates settlements, and makes recommendations to officials of the Department of State with respect to the initiation and resolution of proceedings. The administrative procedures applicable to these violations are found in §§ 719.5 through 719.22 of this part. The Department of State gives notice of initiation of administrative proceedings and issues orders imposing penalties pursuant to 22 CFR part 103, subpart C.

(2) *Violations of the International Emergency Economic Powers Act (IEEPA) subject to judicial enforcement proceedings.* Section 719.3 sets forth violations of the Chemical Weapons Convention for which the statutory basis is the IEEPA. The Department of Commerce refers these violations to the Department of Justice for civil or criminal judicial enforcement.

(3) *Violations and sanctions under the Act not subject to proceedings under this subchapter.* Section 719.4 sets forth violations and sanctions under the Act that are not violations of this subchapter and that are not subject to proceedings under this subchapter. This section is included solely for informational purposes. The Department of Commerce may assist in investigations of these violations, but has no authority to initiate any enforcement action under this subchapter.

NOTE TO PARAGRAPH (a): This part 719 does not apply to violations of the export requirements imposed pursuant to the Chemical Weapons Convention and set forth in the Ex-

port Administration Regulations (EAR) (15 CFR parts 730 through 799) and in the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120 through 130).

(b) *Definitions.* The following are definitions of terms as used only in parts 719 and 720. For definitions of terms applicable to parts 710 through 722 of this subchapter, see part 710 of this subchapter.

The Act. The Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6701-6777).

Assistant Secretary for Export Enforcement. The Assistant Secretary for Export Enforcement, Bureau of Industry and Security, United States Department of Commerce.

Final decision. A decision or order assessing a civil penalty, or otherwise disposing of or dismissing a case, which is not subject to further administrative review, but which may be subject to collection proceedings or judicial review in an appropriate Federal court as authorized by law.

IEEPA. The International Emergency Economic Powers Act, as amended (50 U.S.C. 1701-1706).

Office of Chief Counsel. The Office of Chief Counsel for Industry and Security, United States Department of Commerce.

Report. For purposes of parts 719 and 720 of this subchapter, the term "report" means any declaration, report, or notification required under parts 712 through 715 of this subchapter.

Respondent. Any person named as the subject of a letter of intent to charge, or a Notice of Violation and Assessment (NOVA) and proposed order.

Under Secretary for Industry and Security. The Under Secretary for Industry and Security, U.S. Department of Commerce, who shall concurrently hold the title of Under Secretary for Export Administration.

[64 FR 73804, Dec. 30, 1999, as amended at 67 FR 20631, Apr. 26, 2002; 67 FR 45633, July 10, 2002]

§ 719.2 Violations of the Act subject to administrative and criminal enforcement proceedings.

(a) *Violations.* (1) *Refusal to permit entry or inspection.* No person may willfully fail or refuse to permit entry or